

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

---

In re Patent Application of: Venegas, Jr.

Application No.: 09/771,227

Confirmation No.: 6935

Filed: January 26, 2001

Art Unit: 3635

For: CART CORRAL

Examiner: M. R. Wendell

**APPELLANT'S CORRECTED APPEAL BRIEF**

Mail Stop Appeal Brief  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Non-Compliant Appeal Brief dated July 22, 2009, Appellant hereby submits his corrected Brief for the subject application.

**I. Real Party in Interest**

The real party in interest in this case is Frank Venegas, Jr., Applicant and Appellant.

**II. Related Appeals and Interferences**

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**III. Status of Claims**

The present application is a reissue application and was filed with 36 claims (as issued in the patent). Claims 15-20, 24-26 and 32-36 have been allowed. Claims 1-36 are pending; however, claims 1-14, 21-23 and 27-31 are rejected and under appeal. Claims 1, 9, 21, 23, 27, 28, 29, 30 and 31 are the independent claims under rejection.

**IV. Status of Amendments**

No after-final amendments have been filed.

**V. Summary of Claimed Subject Matter**

Independent claim 1 is directed to a cart corral system comprising a first set of at least two spaced apart vertical rails 12, 14; a base support supporting said first set of vertical rails in an upright position; said base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails 12, 14 and positioned above said base support ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; removable and replaceable polymerized sheathing 32, 36, surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails; removable and replaceable polymerized sheathing 34, 68 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; and separable means 42, 44 for attaching said horizontal rails to said vertical rails. ('921 Patent; 3:47-58).

Independent claim 9 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails 12, 14 and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28

supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3) ; removable and replaceable polymerized sheathing 34 surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails 20, 22 to said vertical rails 12, 14, 24, 26; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports 16, 28; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 21 is directed to a cart corral system comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails 12, 14 and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing 34 surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22

and extending the length of said horizontal rails 20, 22; and separable means 42, 44 for attaching said horizontal rails to said vertical rails; said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member (Fig. 2) formed of polymerized sheathing and having a hollow interior; wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails 12, 14, 24, 26; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 23 is directed to a cart corral system comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing 34 surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; and separable means 42, 44 for attaching said horizontal rails to said vertical rails; said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member (Fig. 2) formed of polymerized sheathing and having a hollow interior; wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails 12, 14, 24, 26; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 27 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing 34 surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails to said vertical rails; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails; said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member (Fig. 2) formed of polymerized sheathing and having a hollow interior; wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails 12, 14, 24, 26; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 28 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of

vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails to said vertical rails; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails; said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member (Fig. 2) formed of polymerized sheathing and having a hollow interior; wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails 12, 14, 24, 26; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 29 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a

second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails 24, 26 in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing 34 surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails to said vertical rails; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails; said separable means for attaching said horizontal rails to said vertical rails comprising a tri-angled member formed of polymerized sheathing and having a hollow interior; wherein each leg of said tri-angled member extends simultaneously in three planes to support said third horizontal rail to said vertical rails and said at least two spaced apart horizontal rails; said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 30 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails in an upright position; said second base support

28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails to said vertical rails; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails; said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a quad-angled member formed of polymerized sheathing and having a hollow interior; wherein each leg of said quad-angled member extends simultaneously in planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails; said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

Independent claim 31 is directed to a maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising a first set of at least two spaced apart vertical rails 12, 14; a first base support 16 supporting said first set of vertical rails 12, 14 in an upright position; said first base support 16 extending between said first set of vertical rails 12, 14 ('921 Patent; 3:13-20); at least two spaced apart horizontal rails 20, 22 removably engaged with said vertical rails and positioned above said first base support 16 ('921 Patent; 3:21-24); a second set of at least two spaced apart vertical rails 24, 26 opposite of said first set of vertical rails 12, 14 and removably engaged with said horizontal rails 20, 22 ('921 Patent; 3:25-33); a second base support 28 supporting said second set of vertical rails in an upright position; said second base support 28 extending between said second set of vertical rails 24, 26; each of said vertical and horizontal rails having an outer diameter and exterior profile (Fig. 3); removable and replaceable polymerized sheathing



surrounding each of said vertical rails 12, 14, 24, 26 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails 12, 14, 24, 26 and extending the length of said vertical rails 12, 14, 24, 26; removable and replaceable polymerized sheathing surrounding each of said horizontal rails 20, 22 having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails 20, 22 and extending the length of said horizontal rails 20, 22; separable means 42, 44 for attaching said horizontal rails to said vertical rails; separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails; said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a multi-angled member formed of polymerized sheathing and having a hollow interior; wherein each leg of said multi-angled member extends simultaneously in multiple planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails; said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails 12, 14, 24, 26. ('921 Patent; 4:56-5:25).

## **VI. Grounds of Rejection to be Reviewed on Appeal**

A. The rejection of claims 1-3, 8-11, 13-14, 21-23 and 27-31 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,609,183 to Ulmer in view of U.S. Patent No. 4,236,697 to Savino.

B. The rejection of claims 4-7 and 12 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,609,183 to Ulmer in view of U.S. Patent No. 4,236,697 to Savino, as applied to claim 1 and 9 above, and further in view of U.S. Patent No. 5,201,426 to Cruwell, Jr.

## **VII. Argument**

### **A. The Rejection of Claims 1-3, 8-11, 13-14, 21-23 and 27-31**

Claims 1-3, 8-11, 13-14, 21-23, and 27-31 stand rejected under 35 USC 103(a) over Ulmer ('183) in view of Savino ('697). However, even in combination, all of Appellant's claim limitations are

not met.

In particular, all of Appellant's claims currently under rejection include the limitation of:

"removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;" and

"removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails"

The Examiner argues that "a plastic coating fits the definition of a polymerized sheathing." (OA, near top of p. 11) Appellant respectfully disagrees. First, "sheathing" would be interpreted as a separate material used to cover something. The "coating" of Ulmer would not apply, as it is more like a coat of paint.

Additionally, however, Appellant is claiming much more than "polymerized sheathing."

Appellant is claiming "removable and replaceable polymerized sheathing," which the Ulmer reference clearly does not meet. According to Ulmer at Col. 3, lines 12-18:

"By combining a plastic coating in combination with the galvanized tubing in accordance with the present invention, in the event the plastic chips off a component part, there still is the galvanized coating underneath and so rust is essentially nonexistent in utilizing the component parts of the present invention."

The use of the word "chip" makes it clear that Ulmer does not satisfy the limitation of removable and replaceable polymerized sheathing. Nor would a coat of plastic have a "diameter" according to Appellant's claims. A coating certainly could not have a diameter "equal to or greater than the outer diameter of each [rail]."

Nor would it be obvious to use the connectors of Savino in the construction of Ulmer (Final OA, p. 12). Ulmer intentionally uses specialized rivets to facilitate maintenance and repair:

"In addition, due to the modular construction, and the ease with which the component parts may be disassembled as a result of the use of a specialized rivet, any damage to a side portion of the shopping cart corral permits repair of the corral by the replacement only of the damaged modular component or components, rather than a whole side section, as in the prior art constructions." (Ulmer; 3:18-25)

If a proposed combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

B. The Rejection of Claims of 4-7 and 12.

Claims 4-7 and 12 stand rejected under 35 U.S.C. §103(a) over the Ulmer/Savino combination as applied to claims 1 and 9 above, and further in view of U.S. Patent No. 5,201,426 to Cruwell, Jr. Claim 4 adds to claim 1 the limitation of a third horizontal rail removably engaged with and extending between said second set of vertical rails at an angle to said at least two horizontal rails, said third horizontal rail positioned above said second base support, said third horizontal rail having an outer diameter and an exterior profile, a removable and replaceable polymerized sheathing surrounding said third horizontal rail; and means for removably engaging said third horizontal rail to said second set of vertical rails. The Examiner argues that while not disclosed by Ulmer or Savino, it would be obvious to add a third horizontal rail removably engaged with and extending between said second set of vertical rails in view of Cruwell, Jr. “to keep a larger amount of carts from escaping the cart corral and damaging surrounding vehicles or people.” (Final OA, top of p. 6)

This argument is not persuasive for a couple reasons. First, it is apparent from the disclosures of Ulmer and Savino that they intend for carts to be pushed right through their corrals, on a first-in, first-out basis. Adding the third horizontal rail would defeat this intended purpose, defeating *prima facie* obviousness. If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Second, there is no evidence whatsoever that the addition of this third horizontal rail would “keep a larger amount of carts from escaping the cart corral and damaging surrounding vehicles or people.” Considerations such as how users interact with the corral and the location of the corral (*i.e.*, on flat ground, against a wall, etc.) are at least as important as the provision of additional rails.

As with claim 4, claims 5-7 and 12 are all dependent claims. Regardless of the teachings of Savino, to the extent that the Examiner has failed to establish *prima facie* obviousness with respect to the claims from which these claims depends, the dependent claims should be deemed allowable as well.

**Conclusion**

In conclusion, for the arguments of record and the reasons set forth above, all pending claims of the subject application continue to be in condition for allowance and Appellants seek the Board's concurrence at this time.

Respectfully submitted,

By: \_\_\_\_\_

John G. Posa

Reg. No. 37,424

Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.

PO Box 7021

Troy, MI 48007-7021

(734) 913-9300

Date: October 22, 2009

**APPENDIX A****CLAIMS ON APPEAL**

1. (Amended) A cart corral system comprising:
  - a first set of at least two spaced apart vertical rails;
  - a base support supporting said first set of vertical rails in an upright position; said base support extending between said first set of vertical rails;
  - at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said base support [and forming an obtuse angle with said vertical rails];
  - a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;
  - each of said vertical and horizontal rails having an outer diameter and exterior profile;
  - a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;
  - removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;
  - removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails; and
  - separable means for attaching said horizontal rails to said vertical rails.
2. The invention defined in claim 1, said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member formed of polymerized sheathing and having a hollow interior;
  - wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

3. The invention as defined in claim 1, said means for separable attaching said horizontal rails to said vertical rails comprising an L-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

4. The invention as defined in claim 1 and further comprising a third horizontal rail removably engaged with and extending between said second set of vertical rails at an angle to said at least two horizontal rails;

said third horizontal rail positioned above said second base support, said third horizontal rail having an outer diameter and an exterior profile;

a removable and replaceable polymerized sheathing surrounding said third horizontal rail having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said third horizontal rail and extending the length of said third horizontal rail; and

means for removably engaging said third horizontal rail to said second set of vertical rails.

5. The invention as defined in claim 4, said separable means for attaching said third horizontal rail to said vertical rails comprising a tri-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said tri-angled member extends simultaneously in planes to support said third horizontal rail to said vertical rails and said at least two spaced apart horizontal rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

6. The invention defined in claim 4, said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical stanchion; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

7. The invention as defined in claim 4, said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

8. The invention as defined in claim 1 and further comprising a fourth horizontal rail removably engaged with and extending between one of said sets of vertical rails at an angle to said at least two horizontal rails;

said fourth horizontal rail positioned above one of said first and second base supports and having an outer diameter;

a removable and replaceable polymerized sheathing surrounding said fourth horizontal rail having an interior diameter equal to or greater than the outer diameter of said horizontal rail and extending the length of said horizontal rail.

9. (Amended) A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

separable means for attaching said horizontal rails to said vertical rails;

separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails.

10. The invention defined in claim 9, said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical stanchion; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.



11. The invention as defined in claim 9, said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

12. The invention as defined in claim 9, and further comprising a third horizontal rail removably engaged with and extending between said second set of vertical rails at an angle to said at least two horizontal rails, said separable means for attaching said horizontal rails to said vertical rails comprising a tri-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said tri-angled member extends simultaneously in planes to support said third horizontal rail to said vertical rails and said at least two spaced apart horizontal rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

13. The invention as defined in claim 9, said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a quad-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said quad-angled member extends simultaneously in planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails.

14. The invention as defined in claim 9, said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a multi-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said multi-angled member extends simultaneously in multiple planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails; said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails.

21. A cart corral system comprising:

- a first set of at least two spaced apart vertical rails;
- a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;
- at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];
- a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;
- a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;
- each of said vertical and horizontal rails having an outer diameter and exterior profile;
- removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;
- removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails; and
- separable means for attaching said horizontal rails to said vertical rails;
- said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member formed of polymerized sheathing and having a hollow interior;
- wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

22. The invention as defined in claim 21 and further comprising a fourth horizontal rail removably engaged with and extending between one of said sets of vertical rails at an angle to said at least two horizontal rails;

said fourth horizontal rail positioned above one of said base supports;

a removable and replaceable polymerized sheathing surrounding said fourth horizontal rail having an interior diameter equal to or greater than the outer diameter of said horizontal rail and extending the length of said horizontal rail.

23. (Amended) A cart corral system comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails; and

separable means for attaching said horizontal rails to said vertical rails;

said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

27. A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

- a first set of at least two spaced apart vertical rails;

- a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

- at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

- a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

- a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

- each of said vertical and horizontal rails having an outer diameter and exterior profile;

- removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

- removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

- separable means for attaching said horizontal rails to said vertical rails;

- separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

- separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails;

said separable means for attaching said horizontal rails to said vertical rails comprising a T-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said T-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

28. (Amended) A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

separable means for attaching said horizontal rails to said vertical rails;

separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails;

said separable means for attaching said horizontal rails to said vertical rails comprising an L-shaped member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said L-shaped member has an interior profile identical to the exterior profile of said horizontal rails and said vertical rails; said interior profile having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

29. (Amended) A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

separable means for attaching said horizontal rails to said vertical rails;

separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails;

said separable means for attaching said horizontal rails to said vertical rails comprising a tri-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said tri-angled member extends simultaneously in three planes to support said third horizontal rail to said vertical rails and said at least two spaced apart horizontal rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said horizontal rails and said vertical rails.

30. (Amended) A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;

removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

separable means for attaching said horizontal rails to said vertical rails;

separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails;

said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a quad-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said quad-angled member extends simultaneously in planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails.

31. (Amended) A maintenance free cart corral system for storing grocery carts, the cart corral system is capable of being readily assembled and disassembled comprising:

a first set of at least two spaced apart vertical rails;

a first base support supporting said first set of vertical rails in an upright position; said first base support extending between said first set of vertical rails;

at least two spaced apart horizontal rails removably engaged with said vertical rails and positioned above said first base support [and forming an obtuse angle with said vertical rails];

a second set of at least two spaced apart vertical rails opposite of said first set of vertical rails and removably engaged with said horizontal rails;

a second base support supporting said second set of vertical rails in an upright position; said second base support extending between said second set of vertical rails;

each of said vertical and horizontal rails having an outer diameter and exterior profile;

removable and replaceable polymerized sheathing surrounding each of said vertical rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of said vertical rails and extending the length of said vertical rails;



removable and replaceable polymerized sheathing surrounding each of said horizontal rails having an interior and exterior diameter, the interior diameter equal to or greater than the outer diameter of each of said horizontal rails and extending the length of said horizontal rails;

separable means for attaching said horizontal rails to said vertical rails;

separable means for attaching additional vertical rails to said first and said second base supports comprising a base support extending from said first and second base supports; and

separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails;

said separable means for attaching additional horizontal and vertical rails to said first and said second set of vertical rails comprising a multi-angled member formed of polymerized sheathing and having a hollow interior;

wherein each leg of said multi-angled member extends simultaneously in multiple planes to support said additional horizontal rail and vertical rails to said first and said second set of vertical rails;

said interior having a diameter equal to or greater than the exterior diameter of said polymerized sheathing surrounding each of said first and said second set of vertical rails.

**APPENDIX B**

**EVIDENCE**

None.

**APPENDIX C**

**RELATED PROCEEDINGS**

None.